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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,105	11/14/2003	Norberto Oscar Gomez	GRM260US	8223
181 7590 06/04/2008 MILES & STOCKBRIDGE PC 1751 PINNACLE DRIVE SUITE 500 MCLEAN, VA 22102-3833				
EXAMINER				
NGO, LIEN M				
ART UNIT		PAPER NUMBER		
3754				
NOTIFICATION DATE		DELIVERY MODE		
06/04/2008		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ipdocketing@milesstockbridge.com  
sstiles@milesstockbridge.com

# Office Action Summary

Application No.

10/712,105

Applicant(s)

GOMEZ ET AL.

Examiner

LIEN TM NGO

Art Unit

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1, 3-8, 10-18, 21, 23-29, 43, 45, 48, 49 and 51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-8, 10-18, 21, 23-29, 43, 45, 48, 49 and 51 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsman's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3-8, 10, 11, 14-18, 21, 23, 25-27 and 49 rejected under 35 U.S.C. 102(b) as being anticipated by Stull (3,439,842). Stull discloses, in figs. 1, 2, 6 and 7, a dispenser comprising a receiver piece 12 having a receiver opening, a receiver ring formed around an outer surface of a receiver sidewall; a hollow cap 20 having a top 46, a solid post 24 for sealingly engaging the receiver opening, a support structure 42 forming a passageway in the cap opening; an internal cap ring 22; and wherein the top of the cap forming a ledge or a radial ramp 46.
3. Claims 43, 45, 48 and 51 are rejected under 35 U.S.C. 102(b) as being anticipated by Greatbatch (5,609,276). Greatbatch discloses, in figs. 1 and 2, a closure arrangement comprising a hollow cap 1 having a sidewall, a top 5, a post 10 for sealingly engaging a receiver opening of a receiver piece, a support structure 11, an internal cap ring, a thread 13 for slidingly engaging a ramp of the receiver piece 4; wherein an outline of the support structure forming a passageway for the cap opening.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 13 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stull (3,439,842) in view of Stull (3,572,559).

Stull'559 teaches a snap ring 20 formed on an inner surface of the cap to snap over a receiving ring when the cap is in a fully closed position.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cap of Stull'842 with a snap ring formed on an inner surface of the cap to snap over a receiving ring when the cap is in a fully closed position in order to secure the cap with the receiving piece in the closed position.

6. Claims 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stull (3,439,842) in view of Cargile et al. (6,673,301).

Cargile et al. teach, in figs. 2-4, a dispenser sidewall comprising a dome 26 and a hinge 20.

It would have been obvious to one having ordinary skill in the art at the time the invention was made the Stull dispenser having a sidewall comprising a dome 26 and a hinge 20, as taught by Cargile et al., in order to provide a retractable end

wall for a tamper indicating covering, and to be free standing when it is in inverted position.

***Response to Arguments***

7. Applicant's arguments with respect to claims 1, 3-8, 10-18, 21, 23-29, 43, 45, 48, 49 and 51 have been considered but are moot in view of the new ground(s) of rejection.
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LIEN TM NGO whose telephone number is 571-272-4545. The examiner can normally be reached on Monday through Friday from 8:30 AM -6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, KEVIN SHAVER can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LIEN TM NGO/

Art Unit: 3754

Primary Examiner, Art Unit 3754

May 28, 2008